
In the Matter of)
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RADIATION CONTROL BOARD MEETING)

Location: Department of Environmental Quality
Conference Room 101, 168 North 1950 West
Salt Lake City, Utah 84114

Reporter: Diane W. Flanagan, RPR
Notary Public in and for the State of Utah

A P P E A R A N C E S

RADIATION CONTROL BOARD MEMBERS:

Kent J. Bradford, Chairman
Stephen T. Nelson, Ph.D., Vice Chairman
Elizabeth Goryunova
John W. Thomson, M.D.
Gregory G. Oman
Joseph K. Miner, M.D.
Dianne Nielson, Ph.D.
Peter A. Jenkins
Joetta Langianese (via phone)
Patrick D. Cone
Robert S. Pattison
Frank D. DeRosso
Christian K. Gardner

ALSO PRESENT:

Fred Nelson, Attorney General's Office
Dane Finerfrock, Executive Secretary
Laura Lockhart, Attorney General's Office
Michael A. Zody, Parsons Behle & Latimer
Travis Stills, Energy Minerals Law Center
(via phone)

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P R O C E E D I N G S

MR. BRADFORD: Good afternoon. Welcome to the March -- or, excuse me -- yeah, I guess we are March now, first day.

MR. FINERFROCK: Second day.

MR. BRADFORD: Second day -- Radiation Control Board meeting. We have a full agenda so we want to move right ahead, but we have a new member of the Board that it would be appropriate at this time to introduce, so I would ask Dane if we would do that.

MR. FINERFROCK: Thank you, Mr. Chairman. Our new Board member is Christian Gardner.

Christian, if you would, wave to the crowd, please.

DR. NIELSON: Dane...

MR. FINERFROCK: Christian Gardner, and Christian is one of the three members that represent the general public.

And if you'd like to take a moment and tell us about yourself, we'd appreciate.

MR. GARDNER: As he said, my name is Christian Gardner. I work for a real estate development company called The Gardner Company. We've been doing -- with my father Kem Gardner doing real

1 estate development for 30 something years. Just happy
2 to be a part of the Board and look forward to serving.

3 MR. FINERFROCK: Thank you.

4 MR. BRADFORD: Thank you and welcome.

5 Okay. Moving into the business items, our
6 first item on the agenda is to review and approve the
7 minutes, which is really the transcript, from the
8 hearing that we had last month, and so it's quite a
9 long document, but I suppose you've all had a chance
10 to glance through it, and if there are any corrections
11 or comments on that, I'll entertain them.

12 I would accept a motion, then, to adopt the
13 minutes. Motion by Elizabeth Goryunova. Do we have a
14 second, please?

15 MR. DeROSSO: Second.

16 MR. BRADFORD: Second by Frank DeRosso. All
17 in favor, then, of adopting the transcript as written
18 say aye.

19 BOARD MEMBERS: Aye.

20 MR. BRADFORD: Any opposed?

21 Thank you. That carries.

22 Okay. Let's see. Then we have some rules
23 to consider under item No. II, and I believe Craig
24 Jones is going to give us an explanation of some rules
25 for five-year review.

1 MR. JONES: Thank you, Mr. Chairman.

2 Good afternoon, Board members. Please turn
3 to tab two in your Board packet as I will be
4 discussing item A. As Mr. Bradford mentioned, there
5 is a rule that is due for a five-year review, and by
6 way of background information I'd like to explain that
7 the Administrative Rulemaking Act requires agencies to
8 take a look at rules at least every five years. The
9 first five-year period or first five-year review
10 occurs after -- five years after the initial enactment
11 of the rule and then at five-year intervals.

12 In this specific case R313-35 dealing with
13 x-ray equipment that is used in nonmedical
14 applications was last reviewed in calendar year 2002;
15 therefore, it is now due for its five-year review.
16 And there is a role for the Board to play in this
17 process. That's why it's listed as an action item.

18 Now, you may be wondering what do these
19 rules deal with. There's a sheet of paper in your
20 packet that briefly explains that these are nonmedical
21 applications and the use of x-ray systems in
22 nonmedical applications. One important use in Utah is
23 with the aerospace industry for the nondestructive
24 testing of solid propellant in rocket motors. Another
25 common application of x-ray systems that are

1 nonmedical circumstances are for veterinary practices,
2 and then there are also circumstances where x-ray
3 systems are used in various types of analytical
4 instruments.

5 The staff of the Division of Radiation
6 Control has looked at these specific rules and
7 determined that there is a need for these rules to
8 continue because the applications -- or the industries
9 that use these systems may face circumstances where
10 significant hazards could exist if there is improper
11 control of the x-ray systems. It's important to point
12 out that this particular rule has not been
13 controversial. There have not been any comments
14 submitted to the Agency about this rule since it was
15 enacted.

16 So it is the recommendation of the Executive
17 Secretary that you take action and that action being
18 that you continue R313-35 and have the Executive
19 Secretary file the five-year notice of review and
20 statement of continuation. So with that as background
21 information, are there any questions?

22 MR. BRADFORD: Looks like there aren't any
23 questions for Mr. Jones. Then I would entertain a
24 motion to adopt this five-year notice of review and
25 statement of continuation.

1 DR. NELSON: So moved.

2 MR. BRADFORD: Have a motion by Steve
3 Nelson. Can I have a second? Second by Gregory Oman.

4 All in favor, then, of adopting this
5 five-year notice of review and statement of
6 continuation say aye.

7 BOARD MEMBERS: Aye.

8 MR. BRADFORD: Any opposed?

9 Thank you. That motion carries.

10 MR. JONES: Thank you.

11 MR. BRADFORD: Our next item on the agenda
12 is also a rule, and I believe -- just want to note for
13 the record that Joette Langianese is on the telephone
14 extension participating in this meeting.

15 Joette, can you hear us okay?

16 MS. LANGIANESE: I can.

17 MR. BRADFORD: I believe I heard your vote
18 of aye on that last motion?

19 MS. LANGIANESE: You're right. That's
20 right.

21 MR. BRADFORD: Okay. Thank you.

22 Our next item, then, is a -- again a rule,
23 and Phil Griffin is going to explain to us the action
24 that's requested here.

25 MR. GRIFFIN: Thank you, Mr. Chairman, Board

1 members.

2 This is a continuation of what we have --
3 back in December we had a Board meeting, and at that
4 time the Board approved the rules in -- sections of
5 our rules pursuant to public comment. That public
6 comment period opened on January 1st and closed on
7 January 31st. We received no comments during that
8 period of time, and we -- therefore, the
9 recommendation from the Executive Secretary is the
10 rule be finalized and the Board approve it and
11 finalize with the effective date of March 16, 2007.

12 If there are any questions, I'll hear them
13 now.

14 MR. BRADFORD: Any questions for
15 Mr. Griffin? Okay. We discussed these, I believe, in
16 December, as Mr. Griffin noted, so are there -- I
17 would entertain a motion, then, to adopt these rules.

18 MS. GORYUNOVA: So moved.

19 MR. BRADFORD: Thank you. Motion by
20 Elizabeth Goryunova. Can I have a second?

21 MR. CONE: Second.

22 MR. BRADFORD: Seconded by Patrick Cone.
23 All in favor of adopting these rules say aye.

24 BOARD MEMBERS: Aye.

25 MR. BRADFORD: Any opposed? Thank you.

1 That motion carries.

2 All right. Under item No. III there are no
3 items, No. IV, so we're down to item No. V, then, and
4 I believe Dr. Nielson is going to give us an update on
5 Senate Bill 155.

6 DR. NIELSON: Thank you very much,
7 Mr. Chairman.

8 In your packet of supplemental information
9 you have a two-sided press release from the governor's
10 office. I would like very much to say that this is
11 all self-explanatory and we could go to questions, but
12 unfortunately not much in this legislative session
13 seemed to fit that category.

14 This is a piece of legislation entitled
15 *Waste Amendments* that clarified the statute with
16 respect to a grandfather provision that was
17 inadvertently removed in 2004 when a bunch of
18 statutory changes were made and was reinserted or
19 stated, I guess -- it wasn't -- the exact wording was
20 not put in SB155.

21 The governor recognized the importance of
22 that correction, and as he noted in the press release
23 for that reason he allowed SB155 to go into law
24 without his signature. However, he also stressed that
25 he remains concerned and takes very seriously the

1 commitment that he's made to the citizens of the state
2 to ensure that Utah doesn't become a dumping ground
3 for nuclear radioactive wastes and that the levels of
4 waste -- the radioactivity of that waste does not
5 increase.

6 The statute already is very clear on
7 prohibitions to Class B and C wastes as well as wastes
8 of higher radio-nuclei content than are currently
9 being accepted into the state. But he indicated that
10 in order to further act on his concern about the
11 potential for increased volumes of radioactive wastes
12 beyond what is currently approved that he would take
13 the three steps, and those are outlined in the press
14 release.

15 One deals with the arrangement under which
16 we operate as a state in the eight-state compact, the
17 Northwestern State Low-Level Radioactive Waste
18 Compact. That's the compact that establishes the
19 arrangement that radioactive waste within that
20 eight-state area will go to the compact site at
21 Richland, Washington, and wastes will not be brought
22 in from outside the compact except as designated by
23 the compact.

24 And there is a resolution in place, a third
25 amended resolution that provides that Energy Solutions

1 can receive certain wastes by virtue of the approval
2 of that resolution and the order and under the terms
3 of that order. So the governor is going to contact
4 the Northwest Compact to make it clear to them that
5 the disposal at Energy Solutions' facility is limited
6 to currently approved volumes. He's also going to
7 exercise his statutory authority in terms of
8 requesting information about activities on the receipt
9 and disposal of low-level radioactive waste -- uranium
10 mill tailings, mixed waste -- materials that are
11 accepted in the state at this point.

12 And the Board and the division and
13 department have been subject to these types of
14 requests before. The legislature has asked for
15 information before, and it was in fact requirements
16 from the legislature, you'll recall, that brought the
17 issue of perpetual care and review of surety before
18 the Board this year and on a five-year basis.

19 I have not, nor has Dane, received at this
20 point any specific requests from the governor on those
21 issues, but I suspect that there will be requests in
22 the future for further information in terms of waste
23 disposal and related wastes that can be received in
24 the state. And he also referenced his authorities
25 under the Constitution to issue executive orders if he

1 deemed that important.

2 So, clearly, he has recognized that there
3 was value in making the correction that was identified
4 in SB155 but that he continues to be concerned and
5 intends to act on his concerns about the levels of
6 radioactive waste and the volumes of radioactive
7 wastes that would be received in the state.

8 I'd be happy to try and answer questions or
9 provide additional information for the Board members
10 if that would be helpful.

11 MS. GORYUNOVA: I have a question. In the
12 paragraph where he says about especially important
13 that Radiation Control Board is supposed to provide
14 him, do we know how often these reports should be
15 provided and if we have the manpower to provide the
16 quality report the way he requested?

17 DR. NIELSON: He hasn't indicated what
18 additional information he would like at this point,
19 but I would expect with that sort of a request there
20 would be an indication of the time in which -- or the
21 frequency in which he would like the reports and that
22 sort of thing. And we'll certainly share those with
23 the Board as soon as we receive them.

24 DR. NELSON: I have a few questions. I'm
25 sorry, I seem to talk a lot at these meetings.

1 Isn't the first bullet really a red herring.
2 Isn't the vast majority of the waste at Energy
3 Solutions coming from outside the compact?

4 DR. NIELSON: I think that's exactly why it
5 is not a red herring. I can't give you percentages,
6 although I suspect Dane could, of the cells that are
7 open at Envirocare right now. The Class A waste and
8 the Class A north waste cell as well as the mixed
9 waste cell receive low-level waste that, it is my
10 understanding, are regulated by the compact. The
11 eleven eighteen two are uranium mill tailing cell, and
12 I think just that cell is the other one that is open
13 that would not be regulated by the compact.

14 The low-level radioactive waste cell is
15 closed, the initial cell. Of course the initial cell
16 is closed, but there are three cells -- mixed waste
17 and the two Class A cells -- that would be subject to
18 the requirements of the compact.

19 DR. NELSON: Right. There are certain
20 wastes that are coming from the Northwest Compact.

21 DR. NIELSON: There are no wastes that are
22 coming from within the compact to Envirocare.

23 Am I correct, Dane? I guess there's -- go
24 ahead.

25 MR. FINERFROCK: There's a small amount of

1 waste from within the compact states that can end up
2 at Energy Solutions. That mixed waste can end up
3 there because there's no facility for it, and there
4 are one or two occasions where compact states have
5 gotten the authority from the compact to send wastes
6 to Energy Solutions, but that is an exception. The
7 vast majority of the waste in Energy Solutions is the
8 other states outside of the compact.

9 DR. NELSON: Which in my mind makes the
10 governor appear as if he's doing something to limit
11 waste volumes in Envirocare -- or Energy Solutions,
12 rather, when in fact given the low level of volumes
13 coming from within the compact makes bullet one almost
14 meaningless.

15 DR. NIELSON: Can I clarify something? He
16 isn't governing the waste coming from within the
17 compact. He is governing the waste -- that bullet
18 deals with the waste that is coming from outside the
19 compact.

20 DR. NELSON: He says, "I will notify the
21 Northwest Interstate Low-Level Compact to limit the
22 volume of waste."

23 DR. NIELSON: Yes.

24 DR. NELSON: Right. How can the Northwest
25 Interstate Compact have any influence on material

1 derived from other states? I don't understand that.

2 DR. NIELSON: Because the compact itself --
3 the law that governs the compact and it's in Utah
4 statute 10 -- 1931 --

5 MR. FINERFROCK: 201.

6 DR. NELSON: 201.

7 DR. NIELSON: Okay. In any case -- and Fred
8 may want to address this further, but that -- the
9 compact was designed specifically to prohibit waste
10 coming from states outside the compact except as the
11 compact would allow it to happen. And this compact
12 has, with Utah's support in the past, had a resolution
13 and order that allowed Envirocare and now Energy
14 Solutions to bring low-level wastes from states
15 outside the compact and place it at Energy Solutions'
16 facility. However, that's done only because, one, the
17 State of Utah agrees to it and, two, it is agreed to
18 by two-thirds of the members of the compact by virtue
19 of the resolution and order.

20 It is that arrangement that the governor is
21 referencing, and it is the waste -- the low-level
22 waste from outside the compact that he is specifically
23 talking about.

24 DR. NELSON: Okay. Thank you for that
25 clarification. The -- that bullet is very opaque in

1 its wording, suggests something entirely different to
2 me.

3 DR. NIELSON: Okay. I'd be happy to get the
4 statue for you and go through that.

5 DR. NELSON: Oh, I don't doubt that's what
6 the statute says, but that's not what -- that's not
7 what I read when I read the bullet.

8 DR. NIELSON: Okay.

9 DR. NELSON: It sounds very much like he's
10 going to instruct the Northwest Interstate Compact to
11 limit the Northwest Interstate Compact wastes coming
12 to Energy Solutions.

13 DR. NIELSON: No.

14 DR. NELSON: That's how it reads.

15 DR. NIELSON: Okay. Well, I appreciate the
16 clarification.

17 DR. NELSON: And the second bullet -- I'll
18 make just a brief observation. I understand that this
19 was issued for public consumption. I think we have a
20 very fine Executive Secretary and staff that work, you
21 know, 40 hours a week and sometimes often much more
22 than that in their oversight responsibilities, and I
23 don't know exactly what the governor expects that this
24 Board is going to be able to do that the staff is not
25 already doing. And I'll just leave it at that.

1 MR. BRADFORD: I think perhaps it might be
2 that the -- obviously the Board is -- this would be
3 similar, I think, to the report we recently prepared
4 for the legislature on the perpetual care question,
5 that the Board didn't actually do the work. We hired
6 a consultant to do the work.

7 But the point of the Board is to challenge
8 and to question and to review the report, and I think
9 the same would be the case in any future request from
10 the governor if he wants some additional thing, that
11 we would ask the staff to do a letter or we would hire
12 a consultant to do it and then we would review it.
13 I'm guessing here. I don't know. Maybe there are
14 some things that we would actually do ourselves.

15 But your point, I think, is correct in that
16 we do not have -- we're obviously all volunteers here
17 and aren't full-time employees here so our time is
18 somewhat limited. So that's why I think when these
19 things come up that the Board members should take them
20 seriously and take the opportunity to review them
21 because that's really the point where we can have an
22 impact.

23 DR. NELSON: Okay. I understand that.

24 I would like to ask a question that's
25 related to this issue, and maybe Mr. Fred Nelson can

1 answer it, but I think it will become apparent why I'm
2 asking.

3 As I understand the statute that allows this
4 Board to operate, the statute envisions some sort of
5 public policy role for the Board, at least in certain
6 circumstances. Would you care to comment on that?

7 MR. NELSON: The Board does have policy
8 authority in two ways. By rulemaking authority you
9 establish the rules of the state, and the Board is
10 vested with the responsibility and authority --
11 ultimate authority for all rulemaking decisions.

12 The second is that the Board has authority
13 to issue policy statements that would reflect the
14 policy of the Board. It wouldn't be the policy of the
15 state, but it would be the policy of the Board. So
16 those two opportunities for indicating policy rests
17 with this Board.

18 DR. NELSON: I just want to make a brief
19 statement. Then I guess we can move on or others can
20 have their turn as it may be. I am aware that there
21 is an action -- a license amendment before the
22 division that would allow part of the facility at the
23 waste to be in place basically double the height.

24 And without making any comment on the
25 technical suitability of the site and the engineering

1 issues associated with it, I am -- as a Board member
2 and as a citizen am extremely disappointed in both the
3 legislature and the governor for abdicating their
4 responsibility in this area. I am frankly saddened
5 that there will be no elected official who will have
6 the opportunity to answer to the public for the
7 approval or disapproval of that sort of action at the
8 Energy Solution site. I think it's very sad, and I
9 wanted to say that publicly. Now I've done it.

10 MR. BRADFORD: I guess I have a similar
11 question, at least regarding the pending amendment.
12 Maybe we don't know, so maybe the answer is we don't
13 know. But, Dr. Nielson, do you believe it was the
14 governor's intent with that first bullet to imply that
15 future volumes such as would be in place with this new
16 amendment would not be approved?

17 DR. NIELSON: Maybe I could first ask Dane
18 to give an update on the status of that pending
19 license amendment. Then maybe I could answer your
20 question. I'm not sure everybody on the Board
21 knows -- understands where we're at with that right
22 now.

23 MR. FINERFROCK: The license amendment that
24 Dr. Nelson was referring to we refer to as the CAC,
25 C-A-C, the combined Class A cells. There are two

1 approved radioactive waste disposal cells: The Class
2 A cell and the Class A north cell. The licensee,
3 Energy Solutions, has proposed to combine those cells
4 into one cell and to also increase the weight -- the
5 waste height in the cells. Obviously the purpose of
6 that is increasing the amount of waste they can get
7 into the cells.

8 We have gone through the technical
9 evaluation. The process is -- the technical process
10 is mostly completed on that. Since we're at that
11 stage we took the license out to public comment, and
12 we had a written comment period and public meetings to
13 take oral comments. Those comments are currently
14 being reviewed, categorized, cataloged, and responses
15 are being prepared. That's where we are in the
16 process.

17 The next -- the next step -- depending on
18 the nature of the comments and whether they cause
19 substantial changes to what we've already seen we may
20 have to revise our draft license, revise the draft
21 groundwater discharge permit, revise the safety
22 evaluation or any statement of bases that we publish
23 along with these draft documents. When that has been
24 accomplished, then the Executive Secretary makes his
25 final decision.

1 DR. NIELSON: So at this time the volumes --
2 to tie back to the first bullet, volumes of waste that
3 are currently approved are approved in the Class A
4 cell and the Class A north cell. There are no volumes
5 approved at this point for the CAC.

6 MR. FINERFROCK: That's correct.

7 DR. NIELSON: And what the governor -- what
8 this first bullet point says is that he will notify
9 the Northwest Interstate Compact -- and again we're
10 dealing with the two Class A cells which are low level
11 waste which are within the authority of the compact --
12 to limit the volume of waste that can be disposed of
13 at the Energy Solutions' facility to the currently
14 approved volume.

15 MR. BRADFORD: Interesting, I guess, to see
16 what happens there, then, so...

17 DR. NELSON: Did I hear you say he would
18 limit it to the currently approved volume?

19 DR. NIELSON: That's what his -- that's what
20 the statement in the press release says that he
21 intends to -- that's a notification that says he
22 intends to --

23 DR. NELSON: I see that. Thank you.

24 MR. BRADFORD: Are there other questions?
25 Patrick?

1 MR. CONE: Sure. Thanks.

2 Joette, this is Pat Cone. Couple of
3 questions. I saw in the paper this morning in Cedar
4 Mountains talking about this bill -- the
5 ramifications -- you know, governments, monopolies
6 versus special corporation. I'm still involved in a
7 monopoly dispute with a water company up in Summit
8 when I was a commissioner four years ago, so I took
9 that pretty seriously when I read that.

10 Second thing, just for your information, I
11 guess you heard that Barnwell is being lobbied -- the
12 legislature in South Carolina is being lobbied heavily
13 right now to extend that facility for another 15 years
14 instead of being closed down sooner than that. I just
15 read that in the paper.

16 Also, we keep talking about currently
17 approved volume. Can you tell me what that volume is?
18 Because when I was talking to the legislators and the
19 Energy Solution people up there, they're saying there
20 is no approved volume, that it's open ended.

21 DR. NIELSON: Dane, I defer that one to you.

22 MR. FINERFROCK: I wish you wouldn't.

23 Patrick, I'm sorry, I don't have -- I don't
24 have the volumes -- the idealized or geometric volumes
25 in front of me.

1 Loren, do you recall, or does any of your
2 staff recall?

3 MR. BRADFORD: The simple answer is that
4 it's just whatever the volume is of the approved cell.

5 MR. FINERFROCK: What I can tell you is the
6 Class A cell, the one -- is approximately 70 percent
7 full and the Class A north cell is only a few
8 percentage full. How many yards that represents, the
9 idealized volume, I don't know.

10 MR. CONE: I guess I --

11 MS. FIELDS: Do you want a copy of your
12 document?

13 MR. CONE: We actually know the number
14 because it came out in the audit. But I guess what --
15 I was going from there's a specific number to being
16 told on the Hill there is no number because they said
17 we can fill up Section 32 however much we want
18 depending on how we engineer something that will hold
19 it. So I guess when he talks about currently approved
20 volume, I know that's just engineered, that cell.

21 Fourth question -- item I had is: When does
22 the Board become active in the CAC debate, if ever?

23 MR. FINERFROCK: If the Executive Secretary
24 makes a decision and either party likes or dislikes
25 the decision, that's when it's brought to the Board.

1 That's the first opportunity for someone who's unhappy
2 with a decision I make to appeal it.

3 MR. CONE: Okay. That's what I have.

4 MR. BRADFORD: I guess I'm wondering why
5 even proceed, then, if it's -- is this a waste of
6 staff time and resources to continue with this if it's
7 dead on arrival because of this policy statement from
8 the governor?

9 DR. NELSON: Or is the policy statement
10 under the first bullet consistent with the intent of
11 the statute? I don't -- I'm not a lawyer, so I don't
12 know the answer to that.

13 MR. NELSON: I think the last two questions
14 that are posed are going to have to be worked on and
15 looked at by staff and by myself -- well, not
16 specifically by myself but legal counsel to the staff.
17 I'm acting as legal counsel for the Board. But those
18 are the kinds of questions that are going to have to
19 be asked as part of the process.

20 And once the Executive Secretary makes that
21 kind of determination, then it will come to the Board
22 for review however the answers are to these questions
23 Steve just posed.

24 MR. BRADFORD: Are there other questions
25 regarding this senate bill? Okay. Thank you.

1 Fred, you can just stay right there because
2 you're next on our list. We have Fred Nelson to
3 discuss with us the approval of findings, conclusions,
4 and the order in the matter of Sierra Club and the
5 appeal of the International Uranium Corporation
6 license amendment.

7 MR. NELSON: Thank you. I believe Travis
8 stills is on the phone. Travis, are you there?

9 MR. STILLS: Yes, I'm here. Can you hear
10 me?

11 DR. NELSON: Travis, are you there?

12 MR. STILLS: Hello, this is Travis.

13 MR. NELSON: Thank you. As you know, the
14 Board held a hearing on Sierra Club's appeal of an
15 amendment to IUC's license. The hearing was held in
16 Blanding and then continued by the Board at its last
17 meeting on February 2nd. The Board made a decision on
18 that appeal, and it's required under the
19 Administrative Procedures Act that it be reduced to
20 writing.

21 I have reviewed the transcript, and as best
22 I could, tried to reduce that decision to writing
23 based on comments of the Board and review of the
24 record, and that draft has been submitted to you.

25 IUC also submitted a draft, as is their

1 opportunity under the rules, and I obviously looked at
2 their draft. I also, though, independently prepared
3 my draft. It was pretty much prepared by the time I
4 had received the IUC draft.

5 My recommendation is that you adopt the
6 draft that I have prepared. I believe it accurately
7 reflects, I think, what the Board did. However, what
8 the Board says their decision is, is what you want in
9 this draft. So I think the next step at this point
10 would be to hear comments from the different
11 parties -- from IUC, from the Executive Secretary, and
12 from Mr. Stills -- on the draft.

13 MR. BRADFORD: Okay. Why don't we go in
14 that order. We'll have Mr. Zody from -- representing
15 IUC first.

16 MR. ZODY: Good afternoon, Mr. Chairman,
17 members of the Board. On behalf of IUC -- this is my
18 exhibit for the record -- we did submit an alternate
19 draft, if you will. Our view is you have two drafts
20 both of which are two roads that lead to the same
21 spot. And so we just defer to the Board to review the
22 drafts and pick the one it wants at this point in
23 time.

24 If you have any questions about our draft,
25 we would entertain those. Otherwise we're -- absent

1 needing to respond to any other comments that are
2 made, we're ready for the Board to move on with it.

3 MR. BRADFORD: Thank you. Are there
4 questions for Mr. Zody?

5 MR. ZODY: Thank you.

6 MR. BRADFORD: Thank you.

7 Laura Lockhart, do you have comment?

8 MS. LOCKHART: Just to echo in Mr. Zody's
9 comments. Either draft would be fine with the
10 Executive Secretary.

11 MR. BRADFORD: Okay. Thank you.

12 Questions for --

13 DR. NIELSON: Mr. Stills.

14 DR. NELSON: Mr. Stills.

15 MR. BRADFORD: Right. I was going to ask if
16 there were questions for Laura Lockhart before we move
17 on.

18 Mr. Stills, would you like to give us your
19 comments on the draft?

20 MR. STILLS: Yes. Thank you. This is
21 Travis Stills, attorney for the Sierra Club and the
22 Glen Canyon Group. Can you hear me okay, first of
23 all, since I'm on speakerphone?

24 MR. BRADFORD: Yes, we can.

25 MR. STILLS: Okay. Thank you. Two main

1 points, and the first is I do object to the Board
2 considering the International Uranium Corporation
3 draft. I did raise the issue of it being out of time.

4 The second point is that the Sierra Club
5 states, and respectfully states, disagreement and
6 objections to the proposed order, and those
7 objections, disagreements are based on the reasons set
8 forward in the detailed briefing and as submitted
9 during the hearing on this matter. And we do look
10 forward to the Board's deliberation and final decision
11 on this matter.

12 Thanks. I'll be happy to take any questions
13 you may have.

14 MR. BRADFORD: Are there questions for
15 Mr. Stills from the Board? Doesn't appear as though
16 there are any questions.

17 Pat Cone?

18 MR. CONE: I had a quick question. I know
19 the Sierra Club had talked about having a stay until
20 this gets resolved, these issues. Did that happen?

21 MR. NELSON: No. We have not received any
22 kind of a filing of a motion for a stay.

23 MR. CONE: Thank you.

24 MR. BRADFORD: Are there questions on either
25 of these documents? If not, I would entertain a

1 motion to adopt one, and I would suggest adopting the
2 one prepared by Fred Nelson.

3 DR. THOMSON: So moved.

4 MR. BRADFORD: Okay. I have a motion from
5 Dr. Thomson to adopt the order drafted by Fred Nelson.
6 Do I have a second?

7 MR. DeROSSO: I'll second it.

8 MR. BRADFORD: Seconded by Frank DeRosso.
9 Questions or discussions?

10 DR. NELSON: Can I let the Board know there
11 is one correction to a cite. On page 8 I left out
12 DISC right at the top of the page on the one cite.
13 Second line down, the reference there says DRC IUC.
14 It should say DRC IUC DISC 0107. I would request that
15 be included in the motion.

16 MR. BRADFORD: Dr. Thomson, you'll include
17 that in your motion?

18 DR. THOMSON: I will.

19 MR. DeROSSO: I'll second it.

20 MR. BRADFORD: All in favor, then -- if
21 there's no further discussion, we'll move on to voting
22 on this motion. All in favor of adopting -- accepting
23 this order as drafted say aye.

24 BOARD MEMBERS: Aye.

25 MR. BRADFORD: Are there any opposed? Don't

1 hear any opposed so the order carries.

2 DR. NELSON: You might want to note for the
3 record, are there any abstentions?

4 MR. BRADFORD: Okay. Are there any
5 abstentions? Okay. Christian Gardner is abstaining.

6 DR. NELSON: Steve Nelson is abstaining.

7 MR. BRADFORD: Okay. Steve Nelson is
8 abstaining. So we have two abstentions. The motion
9 carries, and the order then is adopted.

10 Thank you, Fred, for your work on that.

11 Okay. We are on to item No. VI b, and this
12 was an item that came up again during the hearing that
13 we asked the Agency to come back to us with a schedule
14 for reviewing the background groundwater report. I
15 believe Loren Morton will give us a presentation on
16 this.

17 MR. MORTON: Pass those around. Good
18 afternoon, Board members. We've given some thought to
19 how to go about this report, review of this report,
20 and I'm here to report about our plans to review the
21 report.

22 There's one concern we've got going in, and
23 that has to do with differing professional opinions.
24 And as -- commonly with historic sites that existed
25 for a while sorting out what is -- what kind of data

1 comes from unaltered conditions is important from data
2 that might represent altered conditions, and at this
3 site we have about 27 years worth of data, of which
4 about a year and a half of data was collected
5 pre-operations. And that doesn't include all wells or
6 all parameters.

7 And then again the early time data is less
8 likely to be affected if there were a release, and the
9 later time data has a higher possibility of that. So
10 how do we sort through this? That was my quandary.

11 Some of the brief conclusions that this
12 report outlines I've tried to summarize in bullet
13 form. But essentially it boils down to a lot of the
14 early data has some QA problems to it. And then there
15 are some increasing contaminant trends that are
16 recognized. However, the company brings out the fact
17 that in one case there's an upgradient well with
18 increasing contaminant trend in addition to the four
19 that are downgradient. And how do we reconcile that?

20 And so this is what we propose to do. First
21 of all, I'm going to ask an independent consultant to
22 review the report given to us. I've got a copy of it
23 here. That will be the URS Corporation, and they'll
24 have a two-phase assignment, one being gathering
25 information and getting their records together to

1 learn some of the available documents understanding we
2 have the site. And then second, they'll take a close
3 look and -- at the dataset that was evaluated in the
4 report, how the company went about validating its
5 data, and the statistical analysis that was done. And
6 then URS will generate a report -- or review findings,
7 and that should be delivered to us within early July.

8 Second, at the same time and on a parallel
9 track I'm going to task the University of Utah to
10 conduct some research at the facility. Primarily
11 we'll take a look at the individual well hydraulics
12 and the age dating -- we'll try to date the
13 groundwater there.

14 In unconfined aquifers the younger water
15 should be near the water table, and where the
16 contamination is present and where these increasing
17 trends are found is important in the vertical profile.
18 If that contamination is found shallow, next to the
19 water table, then there could be surface sources that
20 are causing it. If that contamination is found deep
21 where the older water is typically found, then that
22 could be a long faraway source upgradient and
23 presumably then natural or not attributable to this
24 facility.

25 To undertake that dating we'll do tritium

1 and helium-3 sampling. Helium-3 is the daughter of
2 tritium. Tritium is abundant in the atmosphere
3 because of open area nuclear testing. And those
4 ratios will be made to try to date the water.
5 Chlorofluorocarbons or freons are found universally in
6 watersheds and in the hydrosphere around the world.

7 Analysis will be done on the
8 chlorofluorocarbons. Those were invented in the
9 1930s, and they became prevalent in rainfall and with
10 increasing concentration since the 1940s. That will
11 help us age date the water also.

12 There's another tool, a third tool used, and
13 that is deuterium-oxygen. These are heavy, stable
14 isotopes of water. And because this uranium facility
15 recycles so much of its water and holds so much of it
16 in storage there's tremendous potential for
17 evaporation. As a result this will -- the waste water
18 itself will have an evaporative signature thanks to
19 these heavy isotopes.

20 If these heavy isotopes appear in zones
21 where we find contamination, that will tell us
22 something important about what is background and what
23 is not. The chlorofluorocarbons, the tritium, the
24 deuterium, several heavy metals will be sampled by a
25 low-flow sampling technique which will allow us to

1 collect discrete groundwater samples at different
2 depth intervals across the well screens, and that will
3 help us distinguish ages at different depths.

4 And the helium-3 will be collected through
5 passive samplers which are about the size of a pencil,
6 and they have a diffusive membrane on them. They will
7 be deployed in the well for at least two days and then
8 retrieved and analyzed, and that will tell us about
9 the end growth of the daughter of tritium. And we
10 will be looking at wells both upgradient and
11 downgradient of the facility.

12 This research will be conducted by Dr. Kip
13 Solomon, University of Utah, well-renowned in
14 groundwater hydrology and geochemistry. And the
15 direct field work will be done by one of his graduate
16 students, and this will support a thesis. Field
17 work -- we need to meet with the company shortly and
18 negotiate site access.

19 Then we plan on deploying the passive
20 diffusion samplers in May, collecting the low-flow
21 samples in June, lab analysis in July and August,
22 draft report in October, and final report in December.
23 So I hope that by the end of this year we will have
24 two independent lines of review done to try to answer
25 this question, one done by URS and the other done by

1 the University of Utah.

2 Any questions?

3 MR. JENKINS: Just one question for me.
4 We've talked a lot about -- in here about -- and with
5 respect to previous samples the quality assurance of
6 those samples. Have you set any minimum standard for
7 the -- when the University looks at this what type of
8 data analysis test they'll do or any type of
9 laboratory QA/QC that they'll do to ensure certain
10 standard of evaluation for all the samples?

11 MR. MORTON: The field methods will follow
12 an EPA protocol.

13 MR. JENKINS: The EML protocols, or is that
14 a different one?

15 MR. MORTON: From 1996 it's EPA low-flow
16 groundwater sampling procedures. I can give you the
17 reference number if you would like. The analytical
18 work is different than you might be used to. This is
19 research chemistry. These methods aren't applied in a
20 regulatory fashion.

21 I have confidence in Dr. Solomon and his
22 methods. He directs this laboratory directly. It's
23 on the University campus, and he will deploy common
24 quality assurance methods and controls as a part of
25 the oversight in conducting these analytical

1 procedures. And to provide added confidence, I've
2 offered the company an opportunity to split these
3 samples with us, and they may solicit a private lab of
4 their choosing to analyze these data.

5 DR. NELSON: I'm going to jump in because
6 these are exactly the sorts of measurements we make in
7 my lab, and I have every confidence in Dr. Solomon's
8 ability to do these -- to conduct that type of
9 research. This is his bread and butter.

10 MR. JENKINS: In other words, these samples
11 won't be subject to the same criticisms the previous
12 datasets are with respect to QA?

13 DR. NELSON: I shouldn't be answering for
14 Loren, but I'm going to do it anyway. Loren is right
15 that there are not EPA protocols for measuring for
16 oxygen and hydrogen isotopes in ground or surface
17 waters.

18 There is a culture in the academic community
19 of how to sample to prevent -- to properly preserve
20 the sample. I think that's the best answer anybody
21 could give you.

22 Do you have anything to add, Loren?

23 MR. MORTON: We'll do our best, and I have
24 full faith and confidence in Dr. Solomon. I've used
25 him before at the Moab tailings project. He wants to

1 protect his reputation too.

2 MR. BRADFORD: Patrick Cone?

3 MR. CONE: I have a quick question. I live
4 up in Oakley. We pushed a water well in up there a
5 few years ago, age dated it using a carbon-14 and
6 tritium analysis. Turned out to be 18,000-year-old
7 water. Maybe you heard about that. It's pretty
8 interesting stuff. Did you ever consider the
9 carbon-14 and the carbonates in water? Does that
10 help, or do you have too many data points now?

11 MR. MORTON: I'd always like more data as a
12 scientist, Patrick. We discussed it in a preliminary
13 way with Dr. Solomon. He came back, recommended
14 tritium and helium instead. Part of that is driven by
15 budget.

16 DR. NELSON: I have a student working in
17 Snake and Spring Valleys doing tritium and C14. And
18 in this particular geologic setting I wouldn't even
19 consider it. Now, for the deep aquifer in sandstone
20 that would be another story.

21 MR. CONE: Because it's so shallow?

22 DR. NELSON: Yeah, it's so shallow. It's
23 open to the atmosphere.

24 MR. CONE: Couple of other questions. When
25 we were down there we were talking about how do you

1 find out what's underneath the tailings instead of
2 using groundwater wells. And I spent about a dozen
3 years doing polarization. This is all geochem stuff,
4 but have you -- has he ever thought about adding a
5 little bit of geophysics to it and actually trying to
6 model what's going on underneath?

7 MR. MORTON: We brought some of that up in
8 the statement of basis when we issued the first permit
9 in March '05. That document is dated December '04.
10 And, yeah, we contemplated it, but geophysics is prone
11 to interpretation and more than -- and a nonunique
12 solution and it -- therefore, it becomes subjective.
13 And this situation already has enough argument behind
14 it. I don't need any more muddying of the waters.

15 MR. CONE: You want direct information in
16 the models.

17 MR. MORTON: I want direct information, and
18 geochemistry is direct evidence.

19 MR. DeROSSO: You indicated you're
20 interested in negotiations to get access to the site.
21 Do you see this as an issue? Can IUC say no?

22 MR. MORTON: They have free will.

23 MR. DeROSSO: Do you have a sense what their
24 answer is going to be?

25 MR. MORTON: I briefed Dave about this 45

1 minutes ago. He's not given me any indication he
2 would object. I don't know.

3 MR. DeROSSO: Okay.

4 MR. BRADFORD: I guess I have a more
5 down-to-earth question. I assume you have funding or
6 you have a budget. Are you able to -- do you have
7 money to do this work, or is the company going to be
8 asked to reimburse the state for this cost?

9 MR. MORTON: We have funding.

10 MR. BRADFORD: Okay. Thank you.

11 Questions?

12 MS. LANGIANESE: Mr. Chairman, may I make a
13 brief comment?

14 MR. BRADFORD: Yes, go ahead.

15 MS. LANGIANESE: I just wanted the Board to
16 know that I feel very comfortable with Loren's
17 proposal here with the two different tasks at hand.
18 I've had personal experience with Dr. Kip Solomon here
19 in the Grand County with the Miller tailings project.
20 I just wanted to make that comment. I certainly hope
21 that IUC would allow us to conduct these studies.

22 MR. BRADFORD: Thank you.

23 Okay. Well, I guess if there are no
24 additional questions, go forth and prosper.

25 MR. MORTON: Thank you.

1 MR. BRADFORD: Let's see. That brings us
2 down to the public comment period, and we have two
3 presentations that have scheduled ahead of time,
4 requested to present to the Board: Sarah Fields and
5 Ken Sleight.

6 And so we'll go ahead and begin with Sarah,
7 if you'd like to come up and give us what you have to
8 present to the Board.

9 MS. FIELDS: Good afternoon. I'm Sarah
10 Fields with the Glen Canyon Group of the Sierra Club
11 in Moab, and I thank you for this opportunity to come
12 before the Board. We had -- I was late and we had
13 some car difficulty, and hopefully Ken will be here by
14 the time I finish, but I cannot guarantee that. But
15 it's not like we didn't try and that we didn't get
16 here and -- actually got here into Salt Lake City
17 about 11:00 o'clock, so it all happened in Salt Lake,
18 and I was put in a cab to get here.

19 The reason I came before the Board was to
20 discuss the public availability of the uranium
21 by-product material licensing documents and a few
22 other issues that I have concerns about. I did bring
23 copies of this for members of the public, and I put
24 them over here, over on the table over there.

25 When I was here in March of last year, I

1 talked to the Board and up -- to also Dane Finerfrock
2 and the staff of the Division of Radiation Control
3 about my desire that more documents be made readily
4 publicly available. And staff from the DRC explained
5 that they would be putting together a new system where
6 they would make documents publicly available. And as
7 I explained in this memorandum, I really thought that
8 this would mean that most of the licensing documents
9 would be made available on the website, but this
10 really wasn't the case.

11 In particular the notice of violation,
12 correspondence between the Division of Radiation
13 Control and the licensee about the groundwater
14 situation were not posted. Inspection reports were
15 not posted. SRP reports were not posted.

16 And I would just like to see a proactive
17 program on the part of the Division of Radiation
18 Control. I don't think that members of the public
19 need -- should have to take the role of informing
20 other community members of what's going on at the
21 White Mesa mill or at any other facility in Utah that
22 involves 11e.(2) by-product material. This will
23 include the Shooter Canyon mill and of course the
24 11e.(2) by-product material impoundment at the Energy
25 Solutions facility.

1 It has turned out that we have in a way
2 taken on a role of informing community members, but
3 it's difficult because in order to really know what is
4 going on we have to continually submit GRAMA requests,
5 government record act requests.

6 And not being a paid staff person this takes
7 a lot of time. It takes time when all of a sudden you
8 get a whole bunch of documents and then you have to
9 review them. It's just like a brick wall. And I was
10 used to for a number of years having readily --
11 readily available access to the licensing documents
12 through the NRC, and I really see no reason why the
13 Division of Radiation Control can't have this kind of
14 program. And it would be helpful to the staff and to
15 the Board because they could go on the DRC website and
16 find out what exactly is going on at the mill.

17 And one of my concerns is a lot of -- there
18 are a lot of things coming up. We have this notice of
19 violation, and now we have probably a groundwater
20 study that's going to be ongoing. We have ongoing
21 groundwater monitoring. There will be a license
22 renewal that's coming up.

23 There's a change of ownership, yet none of
24 the documents have been posted related to this request
25 for a change of ownership of the facility which will

1 require a license amendment and probably opportunity
2 at least for public comment in a hearing.

3 We have the ongoing reconstruction of cell
4 4A. So there are a number of things going on at the
5 mill that require, I believe, public input, and you
6 can't have public input unless you really have ongoing
7 information about what's going on at the mill. And
8 that's why I request that you have a more
9 comprehensive program to make documents publicly
10 available on the DRC website.

11 Related to the ready and convenient
12 availability of information has to do with No. 2 on my
13 requests, and that has to do with the DRC's allegation
14 management system or management -- allegation
15 management program.

16 I went on the website to find out
17 information about where a member of the public or a
18 worker at the mill can provide confidential
19 information to the DRC about the mill. There are
20 concerns of workers and community members. There is
21 just nothing on the website that points to an
22 allegation management system that I was able to find.

23 And I went to the Texas agreement state
24 website, and they are right there. Right in front of
25 your nose it says complaint -- their complaint

1 program, and they have information. If you go on the
2 MSHA website, you have a form to fill out, you have a
3 great deal of detailed information on how you can
4 report safety concerns, health concerns, environmental
5 concerns.

6 So I certainly would request that the Board
7 and the DRC look into this and provide a very
8 conspicuous link to information about the DRC's
9 allegation management program on their website that
10 provides numbers, maybe a form to fill out so people
11 who feel that their identity needs to be protected can
12 feel that they can make an allegation and -- in
13 confidence to the DRC and also to have the DRC follow
14 up on their concerns.

15 The third concern has to do with the annual
16 radiation protection and AL -- as low as reasonably
17 achievable program audit. The licensee is required to
18 do this audit annually. Previously they submitted
19 this to the Nuclear Regulatory Commission, and then
20 for some reason I believe at the very end of the NRC's
21 responsibility for the mill they gave them permission
22 to not submit this to the regulator, and that means
23 they don't -- they keep it at the mill.

24 It's called -- those kind of documents are
25 called seen but not taken. That means the inspectors

1 from the DRC or even Board members who wish to go to
2 the mill and inspect under their authority can look at
3 these records but they don't take them. And by not
4 taking them, they're not publicly available. That
5 means I can't make a GRAMA request for these records.

6 And I point out that the State of Colorado
7 takes these records and they post them on their
8 website. They feel it's very important that the
9 public and the workers at the mill should have these
10 ALARA reports available.

11 So I request that the Division of Radiation
12 Control have a policy that they take these records.
13 They have the authority to do this. They have the
14 authority to require that the licensees submit these
15 records to the DRC, and thus they can be made
16 available to the public.

17 Does anybody have any questions?

18 MR. BRADFORD: Are there questions for
19 Ms. Fields?

20 MR. OMAN: Just a question. Have we had a
21 problem with transparency on these kind of things
22 before? Is it something we kept to ourselves, maybe
23 not made them as readily available?

24 MR. FINERFROCK: The last time --

25 MR. OMAN: I guess what I'm suggesting is --

1 she has to make all these GRAMA requests. Does she
2 have to make a separate request for everything she
3 wants or is -- I can understand why it would be
4 frustrating, personally.

5 MR. FINERFROCK: Yes, she has to do a GRAMA
6 request to get the documents, and they haven't been
7 posted on the website. Yes, that's correct.

8 MR. OMAN: We talked about this before, I
9 think. This came up -- was it last year?

10 MS. FIELDS: Yeah, it was a year. It was
11 the 3rd of March of last year.

12 MR. OMAN: We've made some improvements, I
13 think.

14 MR. FINERFROCK: It came up in the context
15 of the FMRI Fansteel license amendment. We have
16 committed and we have put all those documents --
17 they're available through the DRC web page. I'm not
18 going to accept the idea that we're not transparent,
19 but we do have a problem, and the problem is that
20 we -- it's a resources issue, and it's a software
21 issue and a number of other things.

22 When documents come to us, they -- if they
23 come in paper form, of course, they need to be scanned
24 in and then put on the website. If they come in
25 electronic copy, that expedites things. But there

1 is -- most of our documentation -- and we receive --
2 you can't imagine the number of documents we receive.

3 We're now getting to the point -- we're not
4 there yet, but great strides are being made in the
5 Division of Radiation Control and in the department as
6 a whole that incoming documents and documents that we
7 produce will be scanned in, electronically maintained
8 as a record which will facilitate making them
9 available through our web page, but we're not there
10 yet.

11 But we're -- like I said, we're doing our
12 best, and there's mandates from the department for us
13 to get this done, and we're getting there. So to me
14 that doesn't mean we're not being transparent. That
15 just means we're not being convenient as much as
16 anything.

17 And, yes, Sarah does have to do GRAMA
18 requests. Obviously if she knows what documents she
19 wants, she can ask for them, and we can provide them
20 to her.

21 MS. FIELDS: Well, I guess because it had
22 been a year it -- I didn't realize that you had
23 intended to do more. I know one thing that the NRC is
24 doing now is requiring that documents be submitted
25 in -- with disks on PDF, particularly everything put

1 in a PDF file. I had the opportunity to go back to
2 Washington a couple of weeks -- well, it was the first
3 week of February for an NRC uranium recovery workshop
4 that they had set up for new licensees.

5 I know a representative from the State of
6 Colorado was there. And then I also attended a
7 meeting between the NRC and a licensee, and they were
8 discussing how they could better submit their
9 applications.

10 And one of the things is when an application
11 comes in, I really have no way of knowing that it's
12 coming in, and I really think that the DRC should let
13 the public know when they receive an application for a
14 license amendment. The public shouldn't have to wait
15 until the issuance of a Safety Evaluation Report to be
16 informed that there's an application.

17 whether it's an application for -- to
18 receive material or if it's an application to change
19 the ownership, I really think that the DRC could let
20 the public know what's happening, could let the public
21 know that there's a notice of violation. I think
22 there could be some information or perhaps indexes of
23 documents, because just by looking at an index of
24 documents you can get a feel for what's happening at
25 the mill.

1 For years that's all the NRC made publicly
2 available were indexes of documents. Then you could
3 go -- you could call up the NRC or e-mail them and
4 order a copy of the documents, but you had those
5 indexes with brief descriptions so you would get a
6 feel for what was going on.

7 So maybe you could consider just having
8 brief indexes. I think I've e-mailed you some of the
9 NRC indexes so you would get a feel for what type of
10 information they have. But there's still the issue of
11 the ALARA audit documents and readily conspicuous
12 information on the allegation program.

13 MR. JENKINS: I've got a quick question for
14 the Executive Secretary. Can you briefly explain what
15 type of documents get posted, which type of documents
16 are only available by GRAMA? And I understand with
17 the new NRC security rules there are some that aren't
18 even available through GRAMA. Is that correct?

19 MR. FINERFROCK: That's correct. Can you
20 repeat question No. 1 for me, please?

21 MR. JENKINS: Can you just basically explain
22 the difference between -- or the criteria you use to
23 determine where those documents are and how they're
24 available?

25 MR. FINERFROCK: Currently the only

1 documents that are posted on the DRC website -- when
2 it comes to the people that we regulate, the ones we
3 routinely post have been the uranium mills:
4 Shooter Canyon facility, Plateau Resources, and
5 White Mesa facility, IUC.

6 The other almost 200 licensees that we have,
7 including Energy Solutions, we have not routinely
8 posted information, as Ms. Fields suggested, a notice
9 that we received the license application or any of the
10 normal exchange and discourse that we go through with
11 a licensee in a license amendment or in the case of --
12 again Ms. Fields brought up in a notice of violation
13 we have -- with respect to notices of violations -- as
14 I said, we have around 200 licensees and 2300 or so
15 registrants. Each one is involved in inspections
16 sooner or later, and the results of those
17 inspections -- again, we don't routinely post them on
18 our website. Does that answer your first question?

19 MR. OMAN: Are those 2300 -- are they dental
20 offices, medical offices, those kind of things?

21 MR. FINERFROCK: Some of them are, yes.

22 MR. OMAN: That would be rather -- I don't
23 know how many NOBs we get, but that would be kind
24 of --

25 MR. FINERFROCK: Well, again, it's a matter

1 of having resources within the agency and having
2 hardware to handle -- servers and whatever it is you
3 need to store this stuff. I'm not an expert in these
4 things, but there's a -- you know, it's an involved
5 process. It's not just as simple as it may sound.

6 MS. FIELDS: Have you considered getting
7 additional funding from the state legislature or
8 raising licensing fees to cover some of these costs?

9 DR. NIELSON: Ms. Fields, maybe I can answer
10 that and also provide some further information on the
11 timing on this. We actually were planning to begin
12 scanning documents roughly a year ago, and the delay
13 was the result of the determination at the state level
14 that they wanted to use one contractor for this
15 operation for all of the state agencies that were
16 going to be making documents available electronically.
17 And it took some time for that contract to be reviewed
18 and bids taken and so forth.

19 So, much of the delay that you're
20 recognizing in Dane's efforts to try and make
21 documents available to you electronically are not the
22 result of the Division of Radiation Control. They're
23 a result of the state contract process.

24 In the context of requesting additional
25 funding, both of those are options. We're not doing

1 that right now to be able to bring this system upward
2 in the department for all of the divisions. We have
3 existing funding at this point. It will be used to
4 make -- as Dane explained, documents that come in in
5 an electronic format will be available electronically,
6 will be stored.

7 They're not all posted, but they are
8 available. Documents that come in on hard copy --
9 letters, tables, requests -- will be scanned as they
10 come in. Some of those may be publicly available,
11 others may not depending on the requirements of GRAMA.

12 But they will all be available in an
13 electronic format when the system is fully
14 operational. And when letters or correspondence or
15 other documents are sent out from the division, they
16 also will be available electronically, will be in a
17 scanned, searchable format. So in addition to having
18 documents that are numbered, they will also be in a
19 PDF format that is a PDF searchable format similar to
20 what we're using right now in the Division of Solid or
21 Hazardous Wastes. So you would be able to go into a
22 catalog of documents and search on keywords, and if
23 the document was one that could be made available
24 under the requirements of GRAMA, you would get
25 information on the listing of those documents.

1 So actually when it's fully operational I
2 think it will be a little bit more serviceable than
3 what was available before. The difficulty is just the
4 time of being able to get the system up now, to begin
5 scanning those documents, to recognize that we have a
6 backlog of documents, some of which are going to be a
7 higher priority of interest, and where those documents
8 exist to prioritize those and start to bring those
9 into that electronic and scannable system also.

10 With respect to what's posted or what can be
11 accessed through the website, I think you raised some
12 very good questions. What I'm going to do is go back
13 and talk to our IT staff, find out what is planned
14 department-wide in terms of that availability, what
15 sort of flexibility we have, what it would take in
16 terms of time and resources and formatting to be able
17 to do that.

18 I can understand your interest in that. I
19 just don't have the answer to those questions right
20 now, but I'd be happy to check into that and give you
21 some response, because I suspect, just as you're
22 asking, that there are others and probably other
23 program information and other divisions within DEQ
24 that would be of interest.

25 With respect to your request that we be able

1 to provide notification in a broader sense of, for
2 instance, what license amendments are being received,
3 I'd like to maybe turn that back to Dane for some
4 comment, but it seems to me that that probably is
5 something that could be rather easily provided as a
6 piece of information that would be posted on the
7 website and notification that -- for key facilities --
8 maybe not for all the facilities but certainly for key
9 facilities that have high public interest that there
10 could be information provided on renewal applications,
11 requests for amendments that would be available that
12 probably would be valuable to the public.

13 And I don't want to answer that question
14 specifically for the Division of Radiation Control,
15 but I can see the value of that, and I'm willing to
16 pursue that in a broader sense with the DEQ. I think
17 you made a good suggestion.

18 MS. FIELDS: Thank you.

19 MR. BRADFORD: Thank you for coming. Did
20 you have any additional comments?

21 DR. NELSON: I have a quick question. What
22 exactly is it -- in the ALARA reports what is the
23 content? Are these doses to individuals?

24 MS. FIELDS: Yeah, it's -- has to do with --
25 my understanding is what is happening in their

1 radiation exposure, their program to minimize
2 radiation exposure to workers and to the public, and I
3 was just very surprised after -- when I was looking
4 through some of the documents at the Division of
5 Radiation Control back in the end of December that all
6 of a sudden those kind of reports are not going to be
7 submitted to the regulator anymore, and I -- that just
8 really surprised me, and I didn't know why that should
9 be.

10 They're required -- I think that any
11 documentation that a licensee is required under the
12 statute, under regulation, under their license to be
13 available to -- any kind of report, whether it's a
14 groundwater monitoring report, an air monitoring
15 report, or in this case as low as reasonably
16 achievable report -- I think any of those reports the
17 licensee is required to generate under their license
18 should be made publicly available, and that ALARA
19 report has to do with radiation health and safety.

20 DR. MINER: I have a question for Dane. Are
21 there some documents or information from a company who
22 files an application which you need, you have to have,
23 but is considered proprietary and not -- and would be
24 screened out as far as GRAMA requests to the public?

25 MR. FINERFROCK: Well, that, I guess, brings

1 up the rest of the question that Peter Jenkins brought
2 up. There is information about licensees that for
3 security reasons we would rather not make it available
4 publicly. If people want to talk to us about it, we
5 can see if it's accessible.

6 And, yes, sometimes we do receive
7 information that the licensee thinks is proprietary,
8 but there's a process for them to go through to
9 demonstrate that it is, and based on that process we
10 can make it confidential or not.

11 The ALARA reports -- there is lots of
12 information that a licensee generates that they're not
13 required to provide us that when we go to their
14 facility, our inspectors can access that information,
15 review it, and determine their compliance with it.
16 Not all of that is provided to us by them sending it
17 to us. That's just the way it is.

18 You know, again, I'm not going to make a
19 statement based on whether I agree or disagree with
20 you about if it's required under the regulations does
21 it have to be kept as a file in our office, but I can
22 tell you that our staff do inspect it. The company
23 does have an ALARA program, as low as reasonably
24 achievable.

25 For the Board members who don't understand

1 that, there are standards that are set by regulations,
2 but there's also a requirement that a corporation, a
3 licensee, do what they can do beyond -- beyond what
4 the regulations require. If a licensee can lower the
5 exposure in affluence or to individuals to levels
6 below the standards, they're required to do that. And
7 companies enter into that.

8 They provide that program to us for our
9 approval during the licensing process, and so since it
10 is a licensing requirement. When our inspectors
11 review that part of their compliance program, we do
12 take a look at it, and we determine where they are in
13 meeting the goals of their ALARA program.

14 MS. FIELDS: What about the issue of the
15 allegation management system? What do you think about
16 making more information readily available on your
17 website for that?

18 MR. FINERFROCK: Well, again more
19 information is pretty nebulous for me.

20 MS. FIELDS: Or just --

21 MR. FINERFROCK: Here's what I do know. The
22 Department of Environmental Quality has a website
23 where it talks about reporting incidents and reporting
24 spills. That's similar, if not exactly what you're
25 speaking to.

1 I know that not having it explicitly in bold
2 letters on the web page that if you have a complaint
3 or you want to report an incident you can do so
4 anonymously hasn't interfered with us receiving
5 complaints. On our DRC web page, the homepage, at the
6 bottom are the names and phone numbers of the people
7 that they can call, and people do that, believe me.
8 And we tell people verbally that they don't have to
9 identify themselves.

10 Likewise our licensees are required to post
11 a Form DRC04. They post this form in conspicuous
12 places within the facility. On that DRC04 form is a
13 specific statement about if you're an employee and you
14 have a problem that you need to discuss outside of the
15 company you can call the Division of Radiation Control
16 at this number, and if you want to remain anonymous,
17 you will remain anonymous. If you choose not to,
18 that's also the case. So there's a number of things
19 in place.

20 MR. BRADFORD: Okay. I think we need to
21 move on. I appreciate your comments.

22 MS. FIELDS: Okay. Thank you.

23 MR. BRADFORD: The division is going to
24 improve in this area.

25 we had Ken Sleight listed next, but I don't

1 see him here.

2 Ken, are you here? Okay. Yes?

3 DR. NIELSON: Mr. Chairman, if Sarah Fields
4 knew if he had a phone with him we could contact him.
5 He could certainly call in and provide comments
6 because we've got the system operationally, but I
7 don't know if that's an option.

8 MR. BRADFORD: Okay. Well, let's go --
9 let's look at the list. We're not quite finished.
10 Perhaps he'll show up.

11 Just in the public attendance sheet of those
12 who signed up it looks like Christopher Thomas of HEAL
13 Utah indicated that he might want to speak to the
14 Board. Why don't you come forward then, Christopher?

15 MR. THOMAS: My name is Christopher Thomas.
16 I'm the policy director for HEAL Utah. I appreciate
17 the opportunity to comment. I wanted to just make a
18 brief statement and then ask some questions regarding
19 Senate Bill 155 since that was on the agenda for
20 today.

21 Related to that discussion I just want to
22 make a few quick points. A substantial part of HEAL
23 Utah's public comments regarding that Energy Solution
24 combined A cell amendment specifically dealt with the
25 part of the law that would modify it by Senate Bill

1 155. We had hoped that the provision requiring
2 legislative and gubernatorial approval for 50 percent
3 capacity increases would be applied and enforced with
4 regard to that specific combined A cell amendment
5 request from Energy Solutions.

6 Senate Bill 155 in our view was about much
7 more than reinstating the grandfather clause that was
8 eliminated in 2004. That clause was for the, quote,
9 construction of a facility rather than the ongoing
10 modifications which would subsequently occur at the
11 facility, in our view.

12 So in our view Senate Bill 155 went much
13 further than the original grandfather clause ever did
14 by specifically exempting as a matter of law Energy
15 Solutions from obtaining legislative and gubernatorial
16 approval related to increases on their current site.

17 So with that in mind, my question is: When
18 the decision is made on the CAC cell, will that
19 decision be subject to the laws that were in effect
20 before Senate Bill 155 or the laws as they stand after
21 Senate Bill 155?

22 MR. BRADFORD: I don't know whether you were
23 here earlier in the meeting. We did discuss this, and
24 I think it's unclear. It's a legal question that has
25 yet been resolved I think Fred maybe wants to comment

1 on.

2 MR. NELSON: I think that's one of those
3 questions you put on the agenda of the Executive
4 Secretary to review.

5 MR. BRADFORD: Okay. Thank you.

6 MR. THOMAS: Okay. And then I wanted to
7 make a comment regarding the statement about the --
8 you know, the governor's statement about volumes that
9 he issued with the statement about Senate Bill 1155.

10 It's my understanding that Energy Solutions
11 and Envirocare -- before it has historically contended
12 that the rules of the compact don't necessarily apply
13 to it. And I was curious if anyone here knew on what
14 basis that argument might be made by Energy Solutions,
15 that the rules of compact may not apply to it.

16 MR. NELSON: I think the question should be
17 posed to Energy Solutions, and I don't know that it's
18 appropriate for any of the Board members or myself to
19 comment on that issue.

20 MR. BRADFORD: Yeah, I agree.

21 MR. NELSON: It's their position.

22 MR. BRADFORD: I agree.

23 MR. THOMAS: And then just finally I wanted
24 to say that we -- HEAL Utah is appreciative that the
25 department and the division are going down the road of

1 making their documents available electronically. That
2 is very important to even make sure that you know what
3 all the documents are in the first place, because
4 sometimes you have a decision that's up and you have
5 30 days to make comments and time is of the essence.
6 So if you make your request and some documents aren't
7 returned the first time when you request it that maybe
8 should have been, that can impact your ability to make
9 public comments. So we applaud that effort.

10 MR. BRADFORD: Thank you.

11 Are there other members of the public who
12 are here today who would like to address the Board?
13 Would you please come forward and state your name?

14 MS. PIERCE: My name is Vanessa Pierce, and
15 I'm the director of HEAL Utah. There was just one
16 other question that occurred to me regarding the issue
17 of low-level radioactive compact, the Northwest
18 Compact. And that is: If hypothetically there were
19 to be a bill introduced in the future that the State
20 of Utah should withdraw from the compact so that the
21 statement issued by the governor would no longer
22 apply, can you tell me whether -- I understand that
23 the State of Utah can withdraw from the compact by
24 virtue of statute. would that require the governor to
25 affirmatively agree about withdrawing from the

1 compact, or could two-thirds of the legislature
2 overrule him on that?

3 MR. BRADFORD: I think that's in the
4 Radiation Control Act, isn't it, Fred? Isn't that a
5 legal --

6 MR. NELSON: The compact is adopted by state
7 law. It's also adopted under federal law. If the
8 state withdraws, it would take an amendment to state
9 law. And my assumption is that it would be a normal
10 process that you would have with any state law. If it
11 were repealed, if the governor vetoed that repeal,
12 two-thirds of the legislature could override that, but
13 that is my off-the-cuff, quick response to a question.

14 MR. BRADFORD: We won't hold you to it.

15 Thank you.

16 MS. PIERCE: Thanks.

17 MR. BRADFORD: I believe that concludes our
18 agenda for the day, then. If there are no other items
19 from members of the Board I'll entertain a motion.

20 MS. LANGIANESE: Mr. Chairman, before you
21 close the meeting may I just make a request?

22 MR. BRADFORD: Yes, Joette. You have the
23 floor.

24 MS. LANGIANESE: I would just like to
25 receive a copy of the press release that Dr. Nielson

1 presented today and also Loren's update if I could.

2 MR. BRADFORD: Okay. Those are in our
3 packet, in our auxillary packet.

4 MS. LANGIANESE: Great.

5 MR. BRADFORD: We'll have that mailed to
6 you.

7 MS. LANGIANESE: Thank you.

8 MR. BRADFORD: I'll entertain a motion to
9 adjourn. We should discuss our next meeting. It will
10 be scheduled April 6th in this room at 2:00 p.m.
11 Okay. We're adjourned, then, by acclimation. How
12 about that?

13 (Proceedings concluded at 3:35 p.m.)
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REPORTER'S CERTIFICATE

STATE OF UTAH)
)
COUNTY OF SALT LAKE) ss.

I, Diane W. Flanagan, Registered
Professional Reporter and Notary Public in and for the
State of Utah, do hereby certify:

That said proceeding was taken down by me in
stenotype on March 2, 2007, at the place therein
named, and was thereafter transcribed, and that a
true, and correct transcription of said testimony is
set forth in the preceding pages;

I further certify that I am not of kin or
otherwise associated with any of the parties to said
cause of action and that I am not interested in the
outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 13th
day of March, 2007.

Diane W. Flanagan, RPR
Notary Public
Residing in Davis County